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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,453	03/10/2004	Sun Hui Chang	Chang0401	4453
7590 H. Michael Brucker Suite 110 5855 Doyle Street Emeryville, CA 94608		01/05/2007	EXAMINER GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3781	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/797,453	CHANG, SUN HUI	
	Examiner	Art Unit	
	Harry A. Grosso	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 March 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-34 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 10 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the fastener of at least one hook and one loop (claim 13) and the snap (claim 14) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 rejected under 35 U.S.C. 102(b) as being anticipated by Randall (2,766,919).
3. Regarding claim 1, Randall discloses a food tray comprising a generally rectangular sheet of flexible material with a concave area (34, Figures 1 and 2) nearer one end edge and a flat area (36) nearer a second end edge.
4. Regarding claim 2, Randall discloses a container hole (38, 40, column 3, lines 1-6) that engages and holds a container (Figure 2).
5. Regarding claim 3, Randall discloses a recess in the first edge (60, 62, column 3, lines 23-28).
6. Regarding claim 4, the openings (38, 40) would be capable of holding a utensil.
7. Regarding claim 5, a second container hole (40) is sized to receive a smaller container.
8. Regarding claim 6, the concave area is created by transverse and longitudinal bows in the sheet.
9. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Yanuzzi (5,390,798). Yanuzzi discloses a generally rectangular blank of flexible sheet material

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comprising a split in the first end edge (16, Figure 1) extending toward a second end edge and a hole (19) for receiving a container nearer the second edge.

10. Claims 21, 22, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorensen et al (6,401,927) (Sorensen).

11. Regarding claim 21, Sorensen discloses a generally rectangular blank of flexible material (Figure 14) with a hole (4) for receiving a container nearer a second end edge and a first end edge opposite the second end edge with a split at its approximate midpoint between flaps (10) at the top of Figure 14.

12. Regarding claim 22, Sorensen discloses an arcuate score line (12) between the hole (4) and the second end edge.

13. Regarding claims 25 and 26 Sorensen discloses a first slot (24 Figures 1, 2 and 14) cut at the score line for an eating utensil and a second slot (24) aligned with the first slot.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1, 2, 6-10, 12, 13 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemingway et al (6,988,614) (Hemingway) in view of Broyles et al (5,850,910) (Broyles).

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16. Regarding claims 1 and 29, Hemingway discloses a generally rectangular food tray (Figure 9) with a first end edge opposite edge 20 and a second end edge (20) and a flat area (23) nearer the second end edge. Hemingway does not teach a concave area in the sheet nearer the first end edge. Broyles discloses a tray made of sheet material capable of being used as a food tray with a split in the sheet material whereby a concave area is formed by overlapping material on either side of the split, the concave configuration providing greater strength and stiffness for the tray (Figures 1-4, column 2, lines 1-4) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a concave area formed as disclosed by Broyles near the first edge of the tray disclosed by Hemingway to provide greater strength and stiffness for the tray.

17. Regarding claim 2, the food tray of Hemingway has a container hole in the flat area.

18. Regarding claim 6, the concave area of the tray of Hemingway as modified by Broyles has a transverse bow and a longitudinal bow.

19. Regarding claim 7, the split in the sheet material of Broyles is at the approximate midpoint of a first end edge as seen in the rectangular blank from which the tray of Broyles is formed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the split at the approximate midpoint of the first end edge as disclosed by Broyles to center the concave area laterally on the tray to give it better balance when in use.

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20. Regarding claims 8-10, 12, 13, 30 and 31, the tray of Hemingway as modified by Broyles has a means for holding the sheet material in an overlapping position consisting of a hook (34, Figures 3-4) and a slot (or loop) (40) with components on either side of the split and the hook is an integral part of the sheet material.

21. Regarding claim 32, the tray of Hemingway as modified by Broyles has a recess in the first end edge resulting from the overlapping of the sheet to form the concave area as seen at the lead lines for (28) in Figures 3 and 4.

22. Claims 11, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemingway as modified by Broyles in view of Arneson (3,767,108). Hemingway and Broyles disclose the invention except for the gusset extending from the split toward the second end and into the concave area. Arneson discloses a food tray formed from sheet material with a split in a first edge and a gusset (30) extending from the split into the concave area so that when the material is overlapped to form the concave area the gusset helps form a leakproof seam (column 3, lines 45-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a gusset extending from the split into the concave area toward the second end as disclosed by Arneson in the food tray of Hemingway as modified by Broyles to form a leakproof seam extending into the concave area.

23. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hemingway as modified by Broyles in view of Goings (3,638,849). Hemingway and Broyles disclose the invention except for the fastener being a snap. Goings discloses a food tray with a snap (26, Figures 1, 6 and 7, column 2, lines 13-19) used to fasten

overlapping portions of the sheet material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of snaps as disclosed by Goings in the tray of Hemingway and Broyles since it is known in the art to use snaps to fasten overlapping portions of sheet material.

24. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Randall in view of Forestal et al (5,152,398). Randall discloses the invention except for the channel from the hole to one side edge. Forestal et al discloses a food tray with a channel (50, Figure 3, column 5, lines 36-46) from the hole to one side edge to allow a wine glass to be inserted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a channel from the hole to one side edge as disclosed by Forestal et al in the food tray disclosed by Randall to allow a wine glass to be inserted.

25. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hemingway as modified by Broyles in view of Sorensen. Hemingway and Broyles disclose the invention with a score line but do not teach an arcuate score line adjacent to the second end edge between the second end edge and the hole. Sorensen discloses a food tray made from sheet material with a container hole (4, Figure 4) near the second end edge and an arcuate score line (12) between the hole and the second end edge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an arcuate score line as disclosed by Sorensen in the tray of Hemingway as modified by Broyles to strengthen the flat area

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near the second end edge against downward bending by arching the flat area upward when the second edge is folded about the arcuate score line.

26. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randall or Hemingway as modified by Broyles in view of Yanuzzi. Randall or Hemingway as modified by Broyles discloses the invention except for the sheet material being plastic, paper or a combination of plastic and paper. Yanuzzi discloses a food tray that is made from plastic, paper or a combination of plastic and paper (column 3, lines 29-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of plastic, paper or a combination of plastic and paper as disclosed by Yanuzzi since it is known in the art to use these materials for food trays.

27. Claims 21, 22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles in view of Brown (2,563,455).

28. Regarding claim 21, Broyles discloses a generally rectangular blank of flexible sheet material (Figure 2, column 3, lines 1-4) having side edges and a first and second end edges that is cut and scored to provide a plate capable of use as a food plate. With a split in the sheet material (28) at the first end edge at the approximate midpoint of the edge of the blank. Broyles does not teach the use of a hole for receiving a container at a location nearer the second end edge. Brown discloses a similar plate with holes (7) for receiving a container near a second end edge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use

of holes to receive containers as disclosed by Brown in the plate of Broyles to allow container to be carried on the plate.

29. Regarding claim 22, Broyles as modified by Brown discloses an arcuate score line (16) that would be between the holes and the second end edge.

30. Regarding claim 27, Broyles discloses a hook (34) and a slit (40) formed on either side of the slit.

31. Claims 23 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles as modified by Brown in view of Arneson (3,767,108). Broyles and Brown disclose the invention except for the gusset formed by two score lines extending from the split toward a point. Arneson discloses a food plate formed from sheet material with a split in a first edge and a gusset (30) formed by two score lines extending from the split toward a point so that when the material is overlapped to form a concave plate the gusset helps form a leakproof seam. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a gusset formed by two score lines extending from the split toward a point as disclosed by Arneson in the food plate of Broyles as modified by Brown to form a leakproof seam when the material is overlapped to form a concave plate.

32. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles as modified by Brown in view of Forestal et al. Broyles and Brown disclose the invention except for except for the channel from the hole to one side edge. Forestal et al discloses a food tray with a channel (50, Figure 3, column 5, lines 36-46) from the hole to one side edge to allow a wine glass to be inserted. It would have been obvious to one

of ordinary skill in the art at the time the invention was made to have incorporated the use of a channel from the hole to one side edge as disclosed by Forestal et al in the food plate of Broyles as modified by Brown to allow a wine glass to be inserted.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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